

Patrick G. Byrne (Nevada Bar #7636)
 Alex L. Fugazzi (Nevada Bar #9022)
 V.R. Bohman (Nevada Bar #13075)
 SNELL & WILMER L.L.P.
 3883 Howard Hughes Parkway, Suite 1100
 Las Vegas, Nevada 89169
 Telephone: 702.784.5200
 Facsimile: 702.784.5252
 Email: pbyrne@swlaw.com
 afugazzi@swlaw.com
 vbohman@swlaw.com

Additional Counsel on Signature Block

Attorneys for Defendants John J. Hagenbuch, Ray R. Irani, Jay L. Johnson, Robert J. Miller, Patricia Mulroy, Clark T. Randt, Jr., Alvin V. Shoemaker, Matthew Maddox, J. Edward Virtue, D. Boone Wayson, Craig S. Billings, and Wynn Resorts, Ltd.

**UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA**

DUSTIN GAJ, Derivatively on Behalf of
 WYNN RESORTS, LIMITED,

Plaintiff,

v.

STEPHEN A. WYNN, MATTHEW
 MADDOX, KIMMARIE SINATRA, D.
 BOONE WAYSON, ALVIN V.
 SHOEMAKER, JOHN J. HAGENBUCH,
 ROBERT J. MILLER, RAY R. IRANI,
 PATRICIA MULROY, CLARK T. RANDT,
 JR., JAY L. JOHNSON, MARC D. SCHORR,
 J. EDWARD VIRTUE, STEPHEN COOTEY,
 and CRAIG S. BILLINGS,

Defendants,

-and-

WYNN RESORTS, LTD., a Delaware
 Corporation,

Nominal Defendant.

Case No. 2:19-cv-00505-KJD-DJA

Hon. Kent J. Dawson

**NOTICE OF DISMISSAL OF
 RELATED APPEAL**

///

///

///

Defendants John J. Hagenbuch, Ray R. Irani, Jay L. Johnson, Robert J. Miller, Patricia Mulroy, Clark T. Randt, Jr., Alvin V. Shoemaker, Matthew Maddox, J. Edward Virtue, D. Boone Wayson, Craig S. Billings, and Wynn Resorts, Ltd. (“Defendants”) hereby respectfully submit this Notice of Dismissal of Related Appeal.

On November 27, 2019, the parties to *In re Wynn Resorts, Ltd. Derivative Litigation*, Case No. A-18-769630-B (the “State Derivative Action” or “DiNapoli Action”) agreed to, reduced to writing, and fully executed a settlement agreement (the “State Court Settlement”) resolving all claims made in that case, as well as claims made, or that could have been made, in other derivative actions in state and federal court. The State Court Settlement was subject to the review and objection of shareholders, and ultimate approval of the Eighth Judicial District Court of Nevada, Clark County. Out of all the Company’s shareholders representing well over 100,000,000 outstanding shares, only two shareholders objected to the State Court Settlement: Plaintiff Dustin Gaj in this action, and Dennis Rosen, a plaintiff who had filed a separate derivative action in state court¹. After considering their written objections, and listening to extensive oral argument at the fairness hearing, the court in the State Derivative Action ultimately rejected Gaj’s and Rosen’s objections and approved the State Court Settlement.

Rightly recognizing that approval of State Court Settlement effectively resolved all other pending derivative lawsuits and claims, the plaintiffs in the federal derivative action styled *In re Wynn Resorts, Limited Derivative Litigation*, Case. No. 2:18-cv-00293, immediately stipulated to dismiss that action with prejudice. Similarly, upon notice of approval of the State Court Settlement, this Court entered an order “deny[ing] the pending motions to dismiss as moot with the caveat that if the state court settlement is rejected, Defendants may renew the motions to dismiss by filing a notice of renewal with the Court (refiling or re-briefing will not be necessary).” (Dkt. #109, Order dated March 23, 2020.)

¹ At the time they filed their objections, Plaintiff Gaj owned just one share in the Company, and Mr. Rosen owned just ten.

1 Only one person appealed the state court's approval of the State Court Settlement: Rosen.
2 However, on June 25, 2020, the Nevada Supreme Court dismissed Rosen's appeal, finding that:

3
4 [A]lthough appellant [Rosen] filed his own related [derivative] action and
5 objected to the settlement of the DiNapoli action, he failed to intervene in the
6 DiNapoli action, and therefore, is not a party with standing to appeal.

7 (Ex. A, Order Dismissing Appeal dated June 25, 2020.) Accordingly, with no other appeals filed,
8 the State Court Settlement is now final and cannot be "rejected."

9 In light of the Nevada Supreme Court's June 25, 2020 Order, which, again, dismisses the
10 only appeal of the State Court Settlement, Defendants respectfully request that this Court
11 immediately dismiss this rogue derivative action, as this Court intimated it would in the Order
12 Denying Motions to Dismiss as Moot (Dkt. #109.) There is no reason to give any more credence
13 to Gaj's attempt to resurrect a derivative claim that everyone agrees—including the other
14 derivative plaintiffs, the state court that rejected Gaj's objection and approved the Settlement, and
15 this Court in denying the motions to dismiss as moot—was released and resolved through the
16 State Court Settlement.

1
2 DATED: June 29, 2020

SNELL & WILMER L.L.P.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

/s/ V.R. Bohman

Patrick G. Byrne (Nevada Bar #007636)
Alex L. Fugazzi (Nevada Bar #9022)
V.R. Bohman (Nevada Bar #13075)
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169

KIRKLAND & ELLIS LLP
Mark Holscher (*Pro Hac Vice* admitted)
Michael J. Shipley (*Pro Hac Vice* admitted)
Kirkland & Ellis LLP
555 S. Flower Street
Los Angeles, California 90071
Telephone: 213.680.8190
Facsimile: 213.808.8097
Email: mark.holscher@kirkland.com
michael.shipley@kirkland.com

Matthew Solum (*Pro Hac Vice* admitted)
Kirkland & Ellis LLP
601 Lexington Avenue
New York, New York 10022-4611
Telephone: 212.446.4688
Facsimile: 212.446.4900
Email: matthew.solum@kirkland.com

*Attorneys for Defendants John J. Hagenbuch,
Ray R. Irani, Jay L. Johnson, Robert J. Miller,
Patricia Mulroy, Clark T. Randt, Jr., Alvin V.
Shoemaker, Matthew Maddox, J. Edward Virtue,
D. Boone Wayson, Craig S. Billings, and Wynn
Resorts, Ltd.*

CERTIFICATE OF SERVICE

On the below date, I served the foregoing document on all parties appearing in this case when filing said document through the court's PACER system with automatic e-service on all persons who have registered for e-service on PACER for this case.

Date: June 29, 2020

/s/ D'Andrea Dunn

An employee of Snell & Wilmer LLP.

Snell & Wilmer

LLP
LAW OFFICES
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169
702.784.5200